



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Am

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,718	03/04/2002	Martin Hurich	10191/2275	4797

26646 7590 05/17/2005

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

CERVETTI, DAVID GARCIA

ART UNIT	PAPER NUMBER
----------	--------------

2136

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,718

Applicant(s)

HURICH, MARTIN

Examiner

David G. Cervetti

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/4/02.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on March 2, 2001. It is noted, however, that applicant has not filed a certified copy of the **10110049.3** application as required by 35 U.S.C. 119(b).

Specification

1. The disclosure is objected to because of the following informalities: "ASIC" (page 4, line 9), "EEPROMs", "CD ROMs" (page 4, line 12). While well known in the art, these terms have not been defined.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 11-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 11 and 13 state "a computer program for execution"; a computer program is considered non-statutory subject matter.

Dependent claims 12 and 14 are rejected based on their dependency from claim 11.

Claims 15-16 state "computer readable medium, comprising a program code arrangement", computer readable medium, comprising a program code is considered non-statutory subject matter.

4. To expedite a complete examination of the application, the claims rejected under 35 U.S.C. 101 (non-statutory) above are further rejected as set forth below in

Art Unit: 2136

anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-2, 4, 6-8, and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawano et al. (US Patent Number: 5,995,623).**

Regarding claim 1, Kawano et al. teach encrypting data to be transmitted in a programming unit using a first key (column 17, lines 25-35); transmitting the encrypted data to the control unit via a data line (column 17, lines 35-45); and decrypting the encrypted data in the control unit using a second key provided in the control unit (column 16, lines 47-61).

Regarding claim 2, Kawano et al. teach wherein the first key and the second key are identical (columns 17, lines 10-67, column 18, lines 1-25).

Regarding claim 4, Kawano et al. teach wherein each one of the first key and the second key includes a table that is accessed by a hash function (column 15, lines 24-50).

Regarding claim 6, Kawano et al. teach wherein at least one of the first key and the second key is implemented in the form of a computer program (column 9, lines 61-67, column 10, lines 1-18).

Regarding claim 7, Kawano et al. teach a data encryption system, comprising: a programming unit in which a first key is provided (column 17, lines 25-35); a control unit

Art Unit: 2136

in which a second key is provided (column 17, lines 35-45); and a data line coupled to the programming unit and the control unit for transmitting encrypted data (column 16, lines 47-61).

Regarding claim 8, Kawano et al. teach wherein the first key and the second key are identical (columns 17, lines 10-67, column 18, lines 1-25).

Regarding claim 10, Kawano et al. teach wherein the programming unit and the control unit each includes an electronic computing unit and a memory module that are linked together by a data bus (column 16, lines 47-61, figure 12).

Regarding claim 11, Kawano et al. teach a program code arrangement for performing an encryption in accordance with a table and a hash function (column 15, lines 24-50).

Regarding claim 12, Kawano et al. teach wherein the computing unit includes an electronic computing unit in a programming unit (figure 12, column 16, lines 47-67, column 17, lines 1-67).

Regarding claim 13, Kawano et al. teach a program code arrangement for performing a decryption in accordance with a table and a hash function (column 15, lines 24-50).

Regarding claim 14, Kawano et al. teach wherein the computing unit includes an electronic computing unit in a control unit (figure 12, column 16, lines 47-67, column 17, lines 1-67).

Art Unit: 2136

Regarding claim 15, Kawano et al. teach a program code arrangement for performing an encryption in accordance with a table and a hash function (column 15, lines 24-50).

Regarding claim 16, Kawano et al. teach a program code arrangement for performing a decryption in accordance with a table and a hash function (column 15, lines 24-50).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawano et al.

Regarding claim 3, Kawano et al. teach that it is possible to use plural encryption keys by embedding the identification information specifying the algorithm and key in the encrypted data (column 17, lines 64-67, column 18, lines 1-25, 53-63). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a public-key algorithm. One of ordinary skill in the art would have been motivated to perform such a modification to increase the encryption security level (Kawano et al., column 18, lines 45-55).

Regarding claim 9, Kawano et al. teach that it is possible to use plural encryption keys by embedding the identification information specifying the algorithm and key in the encrypted data (column 17, lines 64-67, column 18, lines 1-25, 53-63). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a public-key algorithm. One of ordinary skill in the art would have been motivated to perform such a modification to increase the encryption security level (Kawano et al., column 18, lines 45-55).

Art Unit: 2136

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawano et al. as applied to claim 1 above, and further in view of Nohda (US Patent Number: 6,215,875).

Regarding claim 5, Kawano et al. do not disclose expressly wherein at least one of the first key and the second key is implemented in an electronic circuit. However, Nohda teach implementing a key in an electronic circuit (column 7, lines 5-30). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement at least one key using an electronic circuit. One of ordinary skill in the art would have been motivated to do so because at the time the invention was made it was well known in the art to implement ciphering algorithms using hardware (Nohda, column 2, lines 10-50).

Art Unit: 2136

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David G. Cervetti whose telephone number is (571) 272-5861. The examiner can normally be reached on Monday-Friday 7:00 am - 5:00 pm, off on Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DGC


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100